

**EXECUTIVE OFFICE OF THE BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES**

VIOLET VARONA-LUKENS  
Executive Officer



November 8, 2002

To: Supervisor Zev Yaroslavsky, Chairman  
Supervisor Gloria Molina  
Supervisor Yvonne Brathwaite Burke  
Supervisor Don Knabe  
Supervisor Michael D. Antonovich

From: Violet Varona-Lukens *VL*  
Executive Officer

Subject: **Board Rule 39 Public Comment – Non-agenda Items**

At your Board's meeting of October 22, 2002 you directed me to report to you regarding Rule 39, which, among other things, permits a member of the public to make no more than one three-minute presentation to the Board in any three-month period on a non-agenda item.

**History**

Rule 39 was added to the Rules of the Board on December 12, 1986 as a result of 1986 legislation which added Section 54954.3 to the Government Code [AB 2674 (Connelly), Chapter 641 of the Statutes of 1986]. Subdivision (a) of Section 54954.3 required your Board to provide the public with an opportunity to speak on any item of interest that is within the subject matter jurisdiction of the Board. Subdivision (b) of this Section also provided your Board with broad powers to adopt reasonable regulations implementing the requirements of the section including, but not limited to, regulations limiting the amount of time allocated for public testimony on particular issues and time limits for each individual speaker.

Accordingly, among the several Rule changes prompted by AB 2674, your Board adopted Rule 39 to read as follows:

Public Comment. Notwithstanding any other provision of these rules, members of the public shall have the right to address the Board on items of interest which are within the subject matter jurisdiction of the Board. A person may make one presentation per Board meeting, which may include any agenda or non-agenda item or combination of items, but shall not exceed three minutes in length. Not more than five persons may address the Board on non-agenda items at any meeting.

On October 6, 1987, in response to a joint recommendation of the CAO, the County Counsel and the Executive Officer, your Board amended Rule 39 based on nine months' experience with the new statute and rules. The amended rule was designed to encourage broader public participation by encouraging a wider variety of individuals to provide their input, rather than permitting repetitive public comments. It also was intended to ensure that public remarks addressed to the Board were made in a manner that did not involve personalities, which is consistent with Rule 16 with regard to comments made by the members of the Board. After discussion, the Board adopted the current rule language, which reads as follows:

Public Comment - Non-agenda items. Notwithstanding any other provision of these rules, members of the public shall have the right to address the Board on items of interest which are within the subject matter jurisdiction of the Board. A person may make one presentation in any three month period, on a non-agenda item, but shall not exceed three minutes in length. Not more than five persons may address the Board on non-agenda items at any meeting. A person addressing the Board shall avoid personalities on an agenda or non-agenda item.

#### **Clerical Procedures**

Subsequent to adoption of Rule 39, the Executive Office developed control procedures to facilitate implementation of the rule. The procedures require Board Operations Division to maintain a list of all individuals who have spoken during the public comment period during the previous three months. The staff person posted at the Board Hearing Room railing reviews each Request to Speak form against this list to see if the requestor has spoken less than three months before the current meeting date. If the speaker appears on the list of those who are ineligible to speak under Rule 39, the staff person stamps the request and notes the date the person last spoke in public comment and the date on which he or she will be again eligible to speak.

The Request to Speak forms are then given to the Chairman just prior to the Public Comment period. The Chairman will call the speakers to the dais. If a member of the public has spoken during the public comment period at a previous meeting during the previous three months, the Chairman has the discretion to not allow the person to speak, in accordance with Rule 39.

**Application of the Rule**

Under the Rules of the Board, the Chairman may limit the length of time for public discussion of any matter, and may limit the amount of time that a person may address the Board on a matter (Rule 9). Rule 38 also permits the Chairman to limit the amount of time which a person may use in addressing your Board "in the interests of facilitating the business of the Board". Additionally, as provided in Rule 44, your Board may order that a rule be suspended when regularly entered in the minutes.

However, over the years since the current language of Rule 39 was adopted, your Board has frequently exercised its discretion to waive the three-month limitation, as time and other circumstances allow, and to accommodate members of the public who desire to speak during public comment. In this regard, your Board has shown itself to be mindful of the purpose of the Brown Act and has applied the Rule with a good deal of restraint and consideration for the public.

If you require any additional information, please do not hesitate to call me.

c: David Janssen, Chief Administrative Officer  
Lloyd W. Pellman, County Counsel